

REMARKS

This is a full and timely response to the non-final Official Action mailed February 3, 2010 (the “Office Action” or “Action”). Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claim Status:

Claims 1-27 are pending in the present application. Claims 1-10 and 20-27 have been allowed. Claims 11-19 stand rejected by the current Office Action.

35 U.S.C. § 101:

The sole issue remaining in this application is a rejection of claims 11-19 under § 101.

This rejection is explained in the current Office Action as follows.

Claims 11-19 recites the limitation "computer-readable medium". However, it is to be noted that on page 2 of the specification, a computer-readable medium is defined to include transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link, cables, wires, electromagnetic radiation, radio-wave, infrared, carrier wave/pulse which are non-statutory subject matter. Computer readable medium includes carrier wave/pulse, signals, electromagnetic radiation, radiowave, and infrared communication. Hence claims 11-19 are rejected as being directed to non-statutory subject matter.

(Action, p. 2).

In response, Applicant has herein amended claims 11-19 to recite an “article of manufacture embodied in a computer-readable storage medium.” (Claim 11) (emphasis added). The use of the term “storage” to define the type of medium claimed clarifies that the medium is not transitory, but has the function of “storing” the data in question.

Support for this amendment is found in Applicant’s originally-filed specification at, for example, paragraph 0009. That paragraph provides several examples of both volatile and

non-volatile storage media that store data in a computer-readable form, i.e., computer-readable storage medium.

Because claims 11-19 now recite a “storage” medium, the claims exclude those non-statutory embodiments at issue in the Office Action in which transitory carrier waves or electronic signals would be included within the scope of “computer-readable media.” Such transitory embodiments are outside the scope of the now-claimed “storage” media.

Accordingly, following entry of this amendment, claims 11-19 can no longer be reasonably construed as including non-statutory embodiments under 35 U.S.C. § 101. Therefore, the rejection of these claims under § 101 should be reconsidered and withdrawn.

Conclusion:

In view of the preceding arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue or comment in the Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner may wish to take Official Notice in the Office

Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

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